



# BAART Programs

Turk Street Clinic

433 Turk Street

San Francisco, CA 94102

[www.baartprograms.com](http://www.baartprograms.com)

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January 26, 2015

Angela Garner  
Deputy Director  
Division of State Demonstrations and Waivers  
Center for Medicaid and CHIP Services, CMS  
7500 Security Boulevard, Mail Stop S2-01-16  
Baltimore, MD 21244-1850

**Re: Proposed California Amendment to Bridge to Health Reform  
Demonstration (No. 11-W-00193/9), Drug Medi-Cal Organized  
Delivery System Waiver**

Dear Ms. Garner:

I write on behalf of the 803 patients who receive substance use disorder treatment services at our opiate treatment program located at 433 Turk St., San Francisco, CA. We are strongly opposed to sections of the California Bridge to Reform Demonstration (No. 11-W-00193/9) Amendment for Drug Medi-Cal Organized Delivery System Waiver, submitted by the California Department of Health Care Services. Our concern, based on 38+ years of operation, is that waiving federal access protections and granting San Francisco county authority to establish reimbursement rates will result in decreased access to critical, life-saving treatment services.

Specifically, the current proposal will waive beneficiary freedom of choice, equality in amount, duration and scope, state wideness and reasonable promptness, some of which form the basis of a lawsuit 20 years ago called *Sobky Vs. Smoley*. Before that lawsuit, San Francisco county, like many other counties, limited access to needed services by allocating a restrictive number of Medi-Cal treatment slots to each provider. This meant only being able to provide services to a relatively small percentage of the people desperately needing services. When the slots were full patients ended up on a wait list. It was not unusual for a wait list to have a hundred or more patients in limbo. Treatment was not available unless another patient left treatment. Patients often waited for months or longer to receive services. Some patients choose to pay for their own treatment in lieu of



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food or housing or resorted to illegal activities for the monies. The remaining patients were left on the street.

After the lawsuit, San Francisco county complied with the permanent injunction, opening up access to treatment to any patient who qualified. As a result, significantly more people have entered treatment and beneficiaries can access medically-necessary treatment on demand, without the waiting lists that were standard practice before the lawsuit. This waiver is likely to overturn that lawsuit and cause the State of California and San Francisco county to regress back more than 20 years. We ask that CMS **NOT** do anything that may undermine the permanent injunction that was based on overwhelming evidence of county efforts to limit access. Instead, we suggest CMS require California to carve-out opiate treatment providers from this waiver. Such carve-out will not preclude San Francisco county from contracting with our program and offering OTP services to residents of San Francisco county.

The intent of the waiver is to implement the Affordable Care Act here in California. The Affordable Care Act has significantly increased access to OTP services over the past year, but implementation of the waiver will undermine this progress which has been made. After twenty years of success, California's proposed Organized Delivery System would now give back primary responsibility to choose providers, to set rates, and to control access to narcotic treatment programs to all California counties, including those that illegally denied care for many years. In some areas there remains a strong bias against drug replacement treatments, despite the fact that research has proven these forms of evidence based treatment to be highly effective and fiscally beneficial to the communities in which they are located.

Put yourself in the shoes of these patients. What if you called your medical offices and asked to make an appointment for high blood pressure treatment and the receptionist told you "I am sorry but there is currently a waitlist for HBP treatment services, please give me your name and number and we will call you when a slot is available." You keep checking back, but it is months before you get an appointment.

Opiate treatment services are essential, life-saving treatment services for these patients.

A recent article published on the NIH website, *Drug Addiction Stigma in the Context of Methadone Maintenance Therapy* (Earnshaw et al. 2014), demonstrates





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that stigma, prejudice and discrimination are still widely practiced against patients in opiate treatment. Over 50 % of the patients interviewed had examples of the stigma, prejudice and discrimination they were currently facing. We would like to believe in this day and age that educated people would value any evidence based treatment that helps patients recover from a chronic, relapsing and sometimes fatal disease. The reality – if not protected, opiate treatment programs will be limited by people in administrative positions who still hold these beliefs.

Financing of the Special terms and Conditions says counties will propose county-specific rates and the State will approve the rates. For the reasons stated above, this policy will affect access and result in denial, delay, and limitation of services when rates are insufficient to attract sufficient providers to meet beneficiary needs and demands. This provision will also result in unequal treatment of beneficiaries based on the rates paid in different counties. Furthermore, the counties have proposed reverting from the current fee-for-service system to an antiquated cost-reimbursement system. The current system provides incentives for efficiency and aligns payment for services with evidence-based services, ensuring the best possible patient outcomes. Cost reimbursement, on the other hand, rewards inefficiency and greater costs with no connection to outcomes. That is why Congress and most every other payor has moved away from cost reimbursement systems.

In summary, BAART Programs – Turk St. Clinic requests that narcotic treatment programs be exempted from the Organized Delivery System waiver for the above stated reasons.

If you would like more information, please do not hesitate to contact me. Thank you for your consideration.

Sincerely,

*Teresa Fleming MA*

*Clinic Director – BAART Turk St. Clinic*